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APR 13 2020

**CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.**

6 **IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ALASKA**

8 TYLER HECKS)
9 Plaintiff,)
10 VS.)
11)
12 CITY OF SELDOVIA;)
13 ROBIN DANIELS)
14 Defendants.)
15)
16 _____

Case No. 3:20-cv-00083 - SLG

COMPLAINT

17 NOW COMES Plaintiff, by and through counsel Christopher V. Hoke, in this
18 Honorable court with the following complaint requesting a trial by jury for civil damages for
19 violation of 42 U.S.C. §1983 and battery for harm sustained as a result of acts and omissions
20 of the above named defendants and for violation of his liberties guaranteed by the Constitution
21 of the United States of America.

22 **Introductory statement**

23 Police officers peaceably stop drivers on Alaska roads every day for traffic violations.
24 They are peace officers entrusted with enforcing in the laws in a manner consistent with local,
25 state and Federal law, state and Federal constitutions. Normally, drivers respect the authority
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ANCHORAGE, AK**

1 of officers and pull over immediately. No force is required. Any time force is used by an officer
2 upon a citizen, it must be objectively reasonable.

3 For violation of a driving infraction, it would be improper if officers used deadly force.
4 While a driver may be acting in a manner which is illegal, there are few situations, if any, that
5 would permit a police officer to cross over the middle of the road and drive into the path of
6 another vehicle coming from the opposite direction, causing the vehicles to collide and
7 substantial injury -- particularly if the vehicle is a motorcycle in which this manner of making
8 a stop could be deadly. Use of deadly force is only permissible when an officer is threatened
9 with death or substantial injury.

10 This complaint provides an allegation that unreasonable and excessive force was used
11 to conduct a traffic stop in violation of Federal constitutional rights. The claim alleges violation
12 of 43 U.S.C. § 1983 for excessive use of force and battery, causing serious injuries to the
13 plaintiff.

14 **JURISDICTION AND VENUE**

- 15 1. This court has jurisdiction pursuant to 28 U.S.C. §§1331, 1343(a)(3). All claims and
16 attorney's fees arise under 42 U.S.C. §§ 1983 & 1988 for violations of Plaintiff's rights
17 under the Constitution of the United States, and Alaska law for battery.
- 18 2. This court may award attorney's fees under 42 U.S.C. § 1988.
- 19 3. This Court's supplemental jurisdiction is conferred upon state law claims under 28
20 U.S.C. § 1367.
- 21 4. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(2) as it is the judicial
22 district in which a substantial part of the events occurred.
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PARTIES

- 2 5. Tyler Hecks is a resident of Alaska and a citizen of the United States.

3 6. Defendant City of Seldovia is a Municipal Incorporation established under Alaska's

4 Constitution and State law.

5 7. Defendant Robin Daniels was formerly, but at all relevant times employed as the Chief

6 of Police for the City of Seldovia Police Department, a municipal law enforcement

7 agency within City of Seldovia, Alaska.

8 8. Defendants at all times relevant acted under color of state law by exercising municipal

9 authority for the City of Seldovia, Alaska.

10 9. This suit is brought against all defendants in their individual and official capacities.

11

12

FACTUAL ALLEGATIONS

- 15 10. The City of Seldovia Police Department received a complaint on April 1, 2018 that Mr.
16 Hecks was riding his motorcycle possibly in excess of the posted speed limit on a gravel
17 road leading from inside the City limits to an area outside the city limits.
18
19 11. In response to the citizen complaint Chief Daniels utilized his Ford F150 patrol vehicle
20 and began driving toward the location of the reported infraction from the City Police
21 Department, located within City limits.
22
23 12. That morning, plaintiff Tyler Hecks was driving a motorcycle on or about Jakolof Bay
24 Rd. in Seldovia, Alaska. He had recently purchased the used vehicle, a motorized dirt
25 bike, and was test-driving the vehicle to diagnose and correct mechanic issues with the
26 transmission and gear systems of the motorcycle.

- 1 13. As Mr. Hecks was driving, he was unaware that he was being followed, driving a loud
2 motorcycle.
- 3 14. Chief Daniels claims to have had sirens and flashing lights on and to have been pursuing
4 Mr. Hecks from a distance due to Mr. Hecks speed, but has never been characterized
5 as a high-speed chase.
- 6 15. Seldovia, Alaska is a small town not connected to the Alaska Highway system, and
7 Jakalof Bay Road is the longest road in town stretching miles in each direction from
8 downtown Seldovia. This a two lane unpaved road.
- 9 16. At some point, Mr. Hecks turned his motorcycle around and began driving back up the
10 other direction, unknowingly towards Chief Daniels.
- 11 17. At a point in the road in which Hecks was driving up a hill and winding in one direction,
12 Chief Daniels F150 crowned over the hill and then swerved his vehicle across the center
13 of the road and in front of Mr. Hecks.
- 14 18. Trying to avoid being hit by Chief Daniels' vehicle, Mr. Hecks jammed on his brakes
15 and veered his motorcycle as far to the right of his lane as possible. Mr. Hecks was
16 unable to stop his vehicle and was struck by Chief Daniels' vehicle.
- 17 19. The collision caused Mr. Hecks to be knocked off the vehicle, landing in the ditch on
18 the side of the road, causing fractures, requiring medical attention and airlift to the
19 nearest hospital in Homer, Alaska, hospitalization and surgery.
- 20 20. When emergency medical attention arrived,

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1 **COUNT I- VIOLATION OF 42 USC §1983 – FOURTH AMENDMENT**

2 **UNREASONABLE SEIZURE - Use of Excessive Force**

- 3 21. Paragraphs 1 through 20 are hereby re-alleged and incorporated by reference.
- 4 22. Seldovia Police Chief Robin Daniels was acting as a police officer under color of state
- 5 law employed by and representing the City of Seldovia when he drove his vehicle
- 6 striking Mr. Hecks.
- 7 23. The Fourth Amendment of the United States Constitution protects against unlawful
- 8 seizures and excessive force, and Mr. Hecks had the right not to be subjected to
- 9 excessive force in a traffic stop by an officer.
- 10 24. Chief Daniels actions were in violation of the Fourth Amendment, having used more
- 11 than the necessary amount of force needed to make a traffic stop; and considering Mr.
- 12 Hecks was on a motorcycle, this force should be considered deadly force.
- 13 25. Chief Daniels did not have probable cause to believe the Mr. Hecks posed a significant
- 14 threat of injury to other the himself of others.
- 15 26. Chief Daniels actions and use of force were objectively unreasonable to conduct a
- 16 traffic stop under the circumstances of stopping an individual on a motorcycle.
- 17 27. The actions of Chief Daniels were the cause of substantial and unreasonable injuries to
- 18 Mr. Hecks, causing harmful damages.

19 **COUNT II – STATE LAW BATTERY**

- 20 28. Paragraphs 1 through 27 are hereby re-alleged and incorporated by reference
- 21 29. Defendants caused offensive, non-consensual and unlawful contact with Mr. Hecks by
- 22 striking him with a police truck.

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1 30. Defendants act of driving a truck at a motorcycle driving in the opposite direction is a
2 deliberate act intending the consequences which occurred, striking the vehicle.

3 31. Defendants conduct caused Mr. Hecks to suffer serious physical harm, pain and
4 suffering.

5

6 **DEMAND FOR RELIEF**

7 WHEREFORE, Plaintiff demands the following relief:

- 8 a. Damages to be determined at trial;
9
10 b. Attorney's fees pursuant to 42 U.S.C. §1988
11 c. Costs, interest and further relief as this Court may deem just and reasonable under the
12 circumstances.

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14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a jury trial as to all issues.

16 Dated this 1st day of April 2020, at Anchorage, Alaska.

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19
20 Respectfully Submitted,

21 By: _____

22 Christopher V. Hoke
23
24 Alaska Bar No. 1211098

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